

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA)
Plaintiff,)
)
v.) CASE NO. DNCW3:03CR136-1
) (Financial Litigation Unit)
JAMES D. BARKSDALE,)
Defendant,)
)
and)
)
WIFFUS, INC.,)
Garnishee.)

ORDER OF WRIT OF CONTINUING GARNISHMENT

THIS MATTER is before the Court on the answer of Wiffus, Inc., as Garnishee. On October 29, 2004, District Judge Graham C. Mullen sentenced the Defendant to fourteen months of incarceration for his conviction of one count of conspiracy to commit and attempt to commit bank fraud in violation of 18 U.S.C. 1349; and four counts of bank fraud and aiding and abetting the same in violation of 18 U.S.C. 1344. Judgment in the criminal case was filed on November 22, 2004, (Docket No.37). As part of that Judgment, the Defendant was ordered to pay an assessment of \$200.00 and restitution of \$132,000.00 to the victims of the crimes. *Id.*

On March 8, 2012, the Court entered a Writ of Continuing Garnishment ("Writ") to Garnishee, Wiffus, Inc., ("Garnishee"). The United States is entitled to a wage garnishment of up to twenty-five per cent of net income and has satisfied the prerequisites set forth in 15 U.S.C. 1673. Defendant was served with the Writ of Garnishment on March 13, 2012, and Garnishee was served on March 14, 2012. Garnishee filed an Answer on March 23, 2012, (Docket No. 70), stating that at the time of the service of the Writ, Garnishee had in their custody, control or possession property or funds owned by the Defendant, including non-exempt, disposable earnings.

IT IS THEREFORE ORDERED that an Order of Continuing Garnishment is hereby ENTERED in the amount of 117,106.26, computed through January 31, 2012. Garnishee will pay the United States up to twenty- five per cent of Defendant's net earnings which remain after all deductions required by law have been withheld and one hundred per cent of all 1099 payments, and Garnishee will continue said payments until the debt to the United States is paid in full or until Garnishee no longer has custody, possession or control of any property belonging to Defendant or until further order of this Court.

Payments should be made payable to the United States Clerk of Court and mailed to the Clerk of the United States District Court, 401 West Trade Street, Charlotte, North Carolina 28202. In order to ensure that each payment is credited properly, the following should be included on each check: Court Number DNCW3:03CR136-1.

The United States will submit this debt to the Treasury for inclusion in the Treasury Offset Program. Under this program, any federal payment the Defendant would normally receive may be offset and applied to this debt.

SO ORDERED.

Signed: April 16, 2012



David S. Cayer
United States Magistrate Judge

